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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/614,752	07/08/2003	Randall S.E. Peterson	68808/10	6145

27871 7590 03/27/2007

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CANADA

EXAMINER	
LEIVA, FRANK M	
ART UNIT	PAPER NUMBER
3714	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/27/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/614,752	PETERSON, RANDALL S.E.	
	Examiner	Art Unit	
	Frank M. Leiva	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 January 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-22* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-22* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This action is responsive to applicant's amendments file 1/30/2007.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

1. Claims 1 – 22, are rejected under 35 U.S.C. 102(a) as being anticipated by Saidakovsky (US 6,604,997).

a. **Regarding Claim 1**, Saidakovsky teaches a plurality of players until a specific number has been filled, the arrangement of cards for the game (the setup), and comparing game skills between players to determined skill levels. (Col 3:9-17;Col 11:37-43;Col 2:10-16).

b. **Regarding Claims 2, 11, 13, and 22**, Saidakovsky teaches the application of his invention to other card games this would include Poker and Blackjack. (Col 13:36-42).

c. **Regarding Claims 3, and 14**, Saidakovsky teaches the use of players winning to rank performance. (Claim 4 line4).

d. **Regarding Claims 4 and 15**, Saidakovsky teaches pre-qualifications before tournament assignments (Col 2:58-60).

e. **Regarding Claims 5 and 16**, Saidakovsky teaches the reassignment of players after every round (tournaments), (Col 7:6-23).

f. **Regarding Claims 9, 10, 20, and 21**, Saidakovsky teaches limiting tournaments by time and number of rounds, (Col 8:45-65).

g. **Regarding Claim12** (a, b, and c), Saidakovsky teaches a multitude of players connected via a network with assigned places, (Col 3:49-54); (d, e, and f),

Saidakovsky teaches a host server (Internet), a tournament management host and the table positions with equal hands (15', 15", 15'", 15""), and the multiple ranking levels, (Col 3:54-67).

h. **Regarding claims 6–8, and 17–19**, Saidakovsky teaches that his invention can be applied to a card game, where the cards are moved from a pile (drawn), the cards are shuffled to create a set-up (fixed number), and the cards are pre-selected before start of game, (Col 11:29-46).

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 1-22 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-17 of U.S. Patent No. US 7,104,542 B2. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims on the instant application are substantially the same as the above listed patent and serves only to broaden the claims of the application that were previously allowed which is obvious to and artisan of ordinary skill.

Response to Arguments

1. Applicant's arguments filed 1/30/2007 have been fully considered but they are not persuasive, for the following reasons:
Regarding the argument directed to the Saidakovsky reference, "*Saidakovsky does not arrange players into groups or assign players to different tables, let alone distribute cards as recited in claim 1*", It is clear for the examiner that the assignment of players to tables is part of the reference reciting among other things, "In another embodiment, the number of remote players that can play the electronic game for the tournament is limited to a specified number. When the tournament has been filled with the specified number of remote players, additional remote players are allowed to participate in an additional, separate tournament for the electronic game", (Col. 3:9-17), Saidakovsky has to fill a number of seats, (places, tables, positions) which means that he has a seating assignment chart of sorts. The language is not specific to tables and chairs, but the game used for (solitaire for this instance) is always played on a table. Saidakovsky also teaches groupings since he states that additional players are allowed to participate in an additional separate tournament.

2. Regarding the argument directed to the double patent rejection, Peterson's (US 7,104,542), claim 1 reads on the present invention since the table settings and the cards dealt to the players are identical. The present invention makes no claim as of how to measure skill level, simply by winning the games and accumulation more money per tournament, which is the goal on any poker tournament. This is clear to the examiner as to be an obviousness-type double patent issue.

Conclusion

3. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frank M. Leiva whose telephone number is (571) 272-2460. The examiner can normally be reached on M-Th 8:30am - 5:pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

FML
03/21/2007

Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714